

## **STATE OF WYOMING MEDIATION PROGRAM**

### **Section 1. Statement of Policy**

It is the policy of the State of Wyoming to encourage the use of mediation as a valuable tool available to employees, supervisors and managers to resolve conflict at the lowest level possible. Mediation should be utilized prior to the use of other formalized channels. The mediation program may not be utilized to circumvent agency policies, the state personnel rules or the grievance procedures. The following guiding principles shall apply to the mediation program:

- A. Employees and supervisors are strongly encouraged to utilize mediation under the appropriate circumstances.
- B. Participating parties are responsible for compliance with the established procedural requirements.
- C. Mediators must complete training and be approved by the Mediation Program Administrator prior to participating in the mediation program. A roster of mediators will be maintained by the Mediation Program Administrator.
- D. The Mediation Program Administrator shall determine the appropriateness of mediation and the mediator(s) to be utilized. Co-Mediation (team approach) is the preferred method in conducting the mediation sessions. Mediators will be selected from an approved list. When appropriate, the Mediation Program Administrator may request mediators from external sources.
- E. The agency requesting mediation will incur all associated costs. Agencies unable to assume costs may submit requests for funding assistance to the Human Resource Administrator.
- F. An agreement to mediate may affect the grievance timelines. Parties accepting mediation as an alternative agree to extend the timeline established under the grievance procedures.

### **Section 2. General**

The following are the guiding principles of the State of Wyoming's Mediation Program. The use of mediation is strictly voluntary. Mediation does not alter the authority of managers, supervisors, or an agency's open door policy to receive complaints. **Mediation is designed to supplement, not limit or replace established grievance or complaint procedures.**

Mediation is available to all employees of the State of Wyoming (i.e. permanent, probationary, contract, temporary). Glossary of terms in Appendix A; Supporting forms in Appendix B.

### **Section 3. Purpose**

The primary purpose of the Mediation program is to provide a responsive, informal, confidential, effective, and inexpensive means of resolving conflict as an alternative to formal proceedings. Mediation is a process of choice where the parties themselves, with the assistance of a third party neutral, develop solutions to resolve issues at the lowest possible level. Mediation seeks to achieve a 'Win-Win' resolution of conflict by empowering parties to formulate a mutually

agreeable resolution while maintaining management and employee rights. Either party involved in the conflict may decide to end the mediation session at any time upon notice to the mediator.

#### Section 4. **Responsibilities**

- A. Human Resources Administrator:
  - (1) Sponsors and promotes the mediation program.
  - (2) Provides the necessary resources to support the mediation program.
  - (3) Designates the mediation team members and intake offices consisting of: The State Grievance and Appeals Coordinator, Agency Human Resource Offices, and the Human Resources Administrator.
  - (4) Provides advice to agency heads and HR Managers on mediation matters.
  - (5) Establishes state mediation qualification standards for mediators.
- B. Mediation Program Administrator:
  - (1) Oversees the selection and training of mediators.
  - (2) Chairs the mediation team.
  - (3) Ensures mediators meet established qualifications and maintains a roster of mediators and certificates of qualifications.
  - (4) Coordinates mediation sessions and mediation methods, to include availability of resolution officials. (See Appendix A – Glossary for definition of resolution official)
  - (5) Coordinates suitable locations for mediation sessions.
  - (6) Maintains copies of all mediation related records.
  - (7) Coordinates mediation procedures between the intake office and the mediator.
  - (8) Conducts follow-up sessions to evaluate the effectiveness of mediations.
  - (9) Collects, compiles and monitors mediation information to ensure compliance.
- C. Mediation Team:
  - (1) Chaired by the Mediation Program Administrator.
  - (2) Consists of 6 members serving one year terms.
  - (3) Meets quarterly to evaluate the mediation program's effectiveness.
  - (4) Recommends corrective action to provide for improvement of the mediation program.
- D. The Resolution Official (when necessary):
  - (1) Approves or authorizes the settlement agreement.
  - (2) Participates in good faith when requested by the mediator.
  - (3) Cooperates in the resolution effort and sign the resolution agreement.
  - (4) Recommends policy changes and corrective action.
- E. Mediator shall:
  - (1) Schedule and provide notice to the parties concerning place, time, recess and adjournment of the mediation session(s).
  - (2) Maintain orderly mediation session.
  - (3) Request information of the parties, experts or other persons present and asks questions to clarify issues and positions;
  - (4) Request the presence of additional persons;
  - (5) Conduct the mediation in a manner designed to resolve the conflict.
  - (6) Facilitate the process of conflict resolution, assisting the disputants in reaching a mutually acceptable resolution.

#### Section 5. **Procedures**

A. The intake office is contacted regarding a conflict and request for mediation. With an agreement between **both** parties, the issue becomes a candidate for mediation.

B. The parties shall submit a Request for Mediation form to the intake office. This form must be forwarded to the Mediation Program Administrator for review and determination of the appropriateness for mediation. This process should be completed within 7 working days.

C. **If the request is determined appropriate for Mediation**, the Mediation Program Administrator will assign a mediator(s) and make reasonable efforts to ensure mediation within two (2) weeks from the date of determination for mediation.

D. **General Order of Mediation.** Unless otherwise determined by the mediator, the order of the proceedings for the mediation shall be as follows:

- (1) Introduce him/her self as mediator.
- (2) Introduce parties and participants.
- (3) Describe the process.
- (4) Provide each party an opportunity for opening position statements.
- (5) Following initial position statements of all parties to the mediation, the mediator may encourage the designation of a single representative by parties who share substantially similar interests or concerns.
- (6) Clarify issues, interests and positions.
- (7) Identify issues to be discussed.
- (8) Assist the parties in developing options and solutions. Methods may include individual caucuses, written or oral proposals, transmitting responses, and making suggestions and/or proposals to the parties.
- (9) Identify matters agreed upon.
- (10) Clarify settlement agreement.
- (11) Prepare written documentation of agreement.
- (12) If applicable, parties sign the settlement agreement.
- (13) Provide copies of the agreement to the parties and place in the Mediation Program Administrator's file.
- (14) Completes evaluation form as required.

**Note:** The order of proceedings may be modified at any time by agreement of the parties or as determined by the mediator.

E. **Representatives:** Either party may have a representative present during mediation. The mediator(s), however, **may** restrict participation of the representatives. Upon restricting participation of a representative, the mediator should inform the applicable party that the mediation process is completely voluntary.

F. Agreements resulting from mediation.

(1) **Execution and Notice.** All settlement agreements resulting from mediation shall be reduced to writing by the mediator or designee and signed by the parties. Authorized representatives may sign the settlement agreement in addition to the parties, although not in place of the parties, except in the instance of providing a reasonable accommodation for a disability. Fully executed settlement agreement copies shall be provided to the parties and filed by the Mediation Program Administrator.

(2) **Effect of agreement.** If the agreement is not executed by all parties, the agreement shall apply only to those parties who have agreed to the resolution of the conflict.

(3) **Settlement Agreements.** May not be contrary to, and must comply with applicable laws, rules and policies of the State of Wyoming and may not exceed an individual's

authority. When actions exceed authority of the parties, a resolution official must be utilized.

## **Section 6. Confidentiality and Release of Information**

All conversations and materials produced during the mediation sessions are confidential in accordance with W.S. 1-43-101 thru W.S. 1-43-104. Statements made by an opposing party in the mediation may not be used by the other party in subsequent legal proceedings. The parties shall not disclose any information discussed in mediation. The parties will not subpoena or otherwise require the mediator to testify or produce records or notes in any further proceeding.

## **Section 7. Training Procedures**

A. Raising awareness of the mediation program is critical to its use and ultimate success. In recognition of this fact, the training of employees in the mediation process will be a coordinated effort between the Human Resource Administrator, Mediation Program Administrator, the HRD Training Section, and Agency Human Resource Managers. Employees and agency human resource managers will be provided information concerning the mediation program.

B. Mediators shall complete an approved training program as designated by the Human Resource Administrator and added to the Mediation Program Administrator's list of qualified mediators.

C. A continuing education/training program will be established for the approved mediators.

## **Section 8. Evaluation Procedures**

A. The Mediation Program Administrator will insure that evaluation forms are completed and submitted by mediators and participating parties.

B. The Mediation Program Administrator will review mediation cases for general discussion at the quarterly mediation team meetings.

C. The mediation team may make recommendations to the Human Resource Administrator as deemed appropriate.

## APPENDIX A

### GLOSSARY

Caucus - Separate meetings with each of the parties involved in the conflict.

Co-Mediation -The intervention of a neutral, two-member team in a mediation situation.

Disputants - Individuals identifying circumstance(s) of concern.

Intake Office – Initial point of contact, which may include any of the following: Agency Human Resource Offices, the Mediation Program Administrator, A&I Human Resources Administrator.

Issue/Grievance - Applies to any circumstance or condition that creates a conflict.

Mediation -The intervention of a neutral and impartial third party into the situation in question.

Mediator - Neutral and impartial third party who is trained in mediation techniques and has been certified as a mediator.

Neutral - An individual who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the controversy/conflict (mediator, conciliator or facilitator).

Open Door Policy – An informal process established by agency management to receive and resolve employee issues/concerns.

Party - Employees of the State of Wyoming who are subjects of a conflict.

Resolution Official - Management official who is authorized to engage in resolution discussions and facilitate the execution of settlement agreements as determined.

Settlement Agreement - A written document clarifying the terms of the mutual agreement between the parties/participants and is in compliance with legal, procedural and policy guidelines.

STATE OF WYOMING  
REQUEST FOR MEDIATION

Name \_\_\_\_\_

Position/Title \_\_\_\_\_

Business phone \_\_\_\_\_ Home \_\_\_\_\_

I am having a conflict with (please check the appropriate line).

A fellow employee

A manager

My immediate supervisor

OTHER \_\_\_\_\_

Name of additional party(s) involved and phone number:

I request a Mediation session to be scheduled in an attempt to resolve this conflict as soon as possible. *Please complete the attached form to facilitate scheduling.*

I am represented by a third party in this dispute \_\_\_\_ YES \_\_\_\_NO List all additional parties you anticipate bringing to the mediation.

Briefly describe the issue(s) in conflict: (use additional sheets as necessary).

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Your interests: (specify)

Your proposed resolution:

List all dates within the next 30 days that you have a four hour block of time available.

Available to Mediate

DATE	MONTH	AM	PM
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STATE OF WYOMING  
MEDIATION AND CONFIDENTIALITY AGREEMENT

I agree to enter into this mediation session in good faith and agree to abide by the rules and procedures established by the mediators. The Mediation process is strictly voluntary and can be terminated at any time during the process if either party so desires. I understand that participating in the Mediation process **does not** forfeit my right to utilize any formal avenues of redress.

I will sincerely attempt to resolve this dispute; agree to work cooperatively with the party(s) and the mediator(s) involved by discussing the dispute and by helping to work toward an agreeable resolution. I understand that Mediation is a process that focuses on finding a resolution to the issues in dispute. I agree to participate with that goal in mind.

I may also elect to bring other people with me to the mediation session. However, the mediator will decide who may remain in the room during the confidential mediation session. I may bring legal counsel to the session; however, the parties are expected to speak for themselves. During the mediation session, I may ask for a recess to consult with legal counsel or my representative. Presence of others does not guarantee their participation. I understand the focus is resolution of the conflict by the parties of the conflict.

The mediators are neutral in this matter. Their sole purpose is to facilitate the mediation. The mediators do not provide legal advice or counseling. The mediators will not make decisions for the parties. The mediator will assist us in discussing our dispute and assist in reaching a mutually acceptable resolution of our dispute.

Statements made and information provided during the mediation will remain confidential to all involved parties. The mediator's notes will be destroyed at the end of the Mediation session. In accordance with W.S. 1-433-102 *"Any communication is confidential if not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the mediation process or those reasonably necessary for the transmission of the communication."* The parties understand that mediation sessions are settlement negotiations and that discussions during settlement negotiations are inadmissible in any litigation or arbitration of their dispute, as provided by applicable law. The parties will not subpoena or otherwise require the mediator to testify or produce records or notes in any future proceedings.

Unless explicitly stated otherwise in the settlement agreement, settlements are made with no admission of guilt or wrongdoing by any party to the agreement. If a settlement is reached, the agreement shall be reduced to writing by the mediator(s). While the agreement will not be legally binding, it nonetheless represents the agreement reached by the parties in a good faith attempt to resolve the issue.

\_\_\_\_\_  
(Party One) (Date)

\_\_\_\_\_  
(Party Two) (Date)

\_\_\_\_\_  
(Representative) if applicable (Date)

\_\_\_\_\_  
(Representative) if applicable (Date)

\_\_\_\_\_  
(Mediator) (Date)

\_\_\_\_\_  
(Mediator) (Date)



SETTLEMENT AGREEMENT  
Between [Party One] and [Party Two]

1. We are mutually satisfied that we have reached a fair and reasonable settlement and agree to the following terms:

List terms of agreement:

- A.
- B.
- C.
- D.

2. This agreement is not legally binding. We agree to go forward in good faith in carrying out the terms of this agreement. We make settlement of the issues with no blame or admission of guilt or wrongdoing.

3. We agree to comply with this agreement and expect that the arrangement will be mutually beneficial. Should problems arise in the implementation of this agreement, we both agree to consider returning to Mediation before pursuing another course of dispute resolution.

4. We acknowledge that we have read and understand this settlement agreement and knowingly and voluntarily accept and agree to all of its provisions. We also acknowledge that we have had the opportunity to consult with an attorney (at own expense) if we so desired.

PARTY ONE	_____	DATE	_____
PARTY TWO	_____	DATE	_____
MEDIATOR	_____	DATE	_____
MEDIATOR	_____	DATE	_____
RESOLUTION OFFICIAL (if required)	_____	DATE	_____

STATE OF WYOMING  
MEDIATION CLIENT SURVEY

In order to ensure the success of future mediation sessions in meeting the needs of all parties involved, please complete this Mediation Client Survey. Your signature, organization and phone number are optional. Thank you.

How Satisfied Were You?

	Very Satisfied	Satisfied	Unsatisfied	Very Unsatisfied
Time Savings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cost Savings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Effectiveness	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Outcome of Case	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Impact on Relationship Between Parties	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Overall Satisfaction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Why did you choose mediation as a method to resolve your conflict?

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How long was this matter been in conflict before you decided on mediation?

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Please circle the following which best describes the outcome of this conflict?

Complete Settlement      Partial Settlement      No Settlement

Would you elect Mediation again?    Yes    ☐    No    ☐

If no, why?

How can we improve our service to you?

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(Name optional)

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(Date)

STATE OF WYOMING  
MEDIATOR'S SURVEY

Please complete this survey at the conclusion of the Mediation and submit to the Mediation Program Administrator.

NAME OF MEDIATOR: \_\_\_\_\_

NAME OF PARTY: \_\_\_\_\_

NAME OF PARTY: \_\_\_\_\_

RESOLUTION OFFICIAL: \_\_\_\_\_

DATE OF MEDIATION: \_\_\_\_\_ LENGTH OF SESSION \_\_\_\_\_ hrs

OUTCOME: SETTLED \_\_\_\_\_ NOT SETTLED \_\_\_\_\_ CONTINUED \_\_\_\_\_

Please explain why this mediation session was or was not successful.

In your opinion, was mediation appropriate for this case?

Please elaborate on any problems you encountered in the session. Comments?

STATE OF WYOMING  
CONSOLIDATED MEDIATION REPORT

Agency/Organization/Affiliation \_\_\_\_\_

Date of Mediation \_\_\_\_\_ Length of Session \_\_\_\_\_

Settlement Outcome:              Full              Partial              None

Alleged discriminatory action(s) mediated by basis: *Indicate as appropriate*

<input type="checkbox"/> Age	<input type="checkbox"/> Race	<input type="checkbox"/> Color	<input type="checkbox"/> Religion
<input type="checkbox"/> Nation Origin	<input type="checkbox"/> Gender	<input type="checkbox"/> Disability	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Sexual Harassment			

By Issue:	<input type="checkbox"/> Performance Appraisal	<input type="checkbox"/> Promotion	<input type="checkbox"/> Overtime/Pay
	<input type="checkbox"/> Time/Attendance	<input type="checkbox"/> Suspension	<input type="checkbox"/> Contracting
	<input type="checkbox"/> Compensatory Time	<input type="checkbox"/> Duty Hours	<input type="checkbox"/> Awards
	<input type="checkbox"/> Working Conditions	<input type="checkbox"/> Reinstatement	<input type="checkbox"/> Assignment
	<input type="checkbox"/> Written Reprimand	<input type="checkbox"/> Removal	<input type="checkbox"/> Environmental
	<input type="checkbox"/> Training	<input type="checkbox"/> Counseling Statement	
	<input type="checkbox"/> Reprisal	<input type="checkbox"/> Other (specify)	

**Total Cost:** Personnel Time \_\_\_\_\_ Administrative \_\_\_\_\_ Travel \_\_\_\_\_

Training \_\_\_\_\_ Mediation Time \_\_\_\_\_ Per Diem \_\_\_\_\_

Settlement \_\_\_\_\_ Other \_\_\_\_\_

**Estimated Savings:** Personnel Time \_\_\_\_\_ Litigation \_\_\_\_\_

Travel \_\_\_\_\_ Court \_\_\_\_\_ Administrative \_\_\_\_\_ Time \_\_\_\_\_

Other \_\_\_\_\_